IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (PIL) NO. 1383 OF 2004

Uttar Mumbai Madh Erangal Beach Management Co-op. Soc. Ltd.) ... Petitioners

Versus

The Union of India and Ors. ..Respondents

Mr. E.P. Bharucha with Mr. Jamshed Mistry instructed by Mrs. S.S.Wagh for the petitioner.
Mr. D.A. Dubey for respondent No.1.
Mr. R.M. Sawant with Mr.Amjad Sayed, Assistant Government Pleader, for respondent Nos. 2 and 3.
Mr. R.V. Govilkar for respondent No.4.
Mrs. P.A. Purandare for respondent No.5.
Ms. M.P. Adenwala for respondent No.6.

CORAM: **DALVEER BHANDARI, C.J.** & **DR. D.Y. CHANDRACHUD, J.**

DATE: **DECEMBER 22, 2004**.

P.C.

This petition has been filed by Uttar Mumbai Madh Erangal Beach Management Co-op. Society Limited with the following prayers.

(a) that this Hon'ble Court be pleased to issue a writ of mandamus or any other appropriate, writ, order or direction to direct the Repondents to:

(i) Keep the said coastal stretch of Erangal beach viz. the foreshore land belonging to the Government of Maharashtra and bearing Survey No. 134 of Village Erangal in the P North Ward of Greater Mumbai beyond

300 meters of the Gaothan land of Village Bhatti free from fish drying;

(ii) Keep the area of said coastal stretch ofErangal beach upto 50 meters from the high tide line towards the landward side free from any fishing /fish drying activity;

(iii) Keep the said coastal stretch of Erangal beach free from boat repair/boat building activities;

(iv) Remove the embankment on the said coastal stretch of Erangal beach; and

(v) Remove the bhandaras and other unauthorised structures from the said coastal stretch of Erangal beach.

2. Pursuant to the show cause notice, Deputy Collector, M.S.D., Bandra (East), Mumbai-400 051 has filed an affidavit. In the affidavit, it is mentioned that the Government took a policy decision to permit fishermen to utilise the lands adjacent to their village for the purposes of carrying out fishing and other related activities, including drying of fish. The said policy decision is contained in the circular dated 4th February, 1983 (Exhibit-1 to the affidavit). The deponent has further stated that the Government under its orders No. 74/3C/S 006 dated 21.4.1990 and No. 74/7A/M0006/2001 dated 17.5.2001 has earmarked only a portion adjacent to the village Bhatti out of 22A 22G of S.No. 134 for the benefit of the fisherfolk for their fish drying/net drying etc. This

portion is shown bounded red and marked 'B' on the plan annexed as Exhibit-2 to the affidavit. The aforesaid orders dated 21st April, 1990 and 17th May, 2001 are annexed as Exhibit-3 Colly. to the affidavit. It is stated that the entries were made to this effect in the 7/12 extract of S. No. 134 of village Erangal. The rights of the fishermen of Bhatti village were protected for only this portion of S.No. 134 shown bounded red on the plan. The deponent has further stated that as per the 1983 circular, the fishermen were allowed to utilise only the adjacent land to the village for the purposes of fishing and other related activities which was in consonance with the CRZ notification of 1991, as also the D.C.Regulations.

3. In view of this affidavit, in our opinion, no further directions are necessary. In case the fishermen want the area to be increased, they would be at liberty to file appropriate representation before the concerned authority. This petition is accordingly disposed of.

CHIEF JUSTICE

DR. D.Y. CHANDRACHUD, J.

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